

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of: |) | |
| John BUTLER et al. |) | Group Art Unit: 3775 |
| Application No.: 10/665,395 |) | Examiner: Ramana, Anuradha |
| Filed: September 22, 2003 |) | |
| For: WOUND RETRACTOR SYSTEM |) | Confirmation No.: 4412 |

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**COMMENTS ON EXAMINER'S AMENDMENT
AND STATEMENT OF THE SUBSTANCE OF THE INTERVIEW**

Without withdrawing allowed claims 1, 6-9, 14-20, 22-25, 27-33, 35, and 36 from issue, Applicant provides the following comments on the Examiner's Amendment attached to the Notice of Allowability mailed August 24, 2010.

With respect to claim 21, Applicant wishes to clarify that the cancellation of the claim by Examiner's Amendment is without prejudice or disclaimer, and the cancellation should not be interpreted as an admission that the claim is unpatentable. Applicant reserves the right to pursue the cancelled claim in a subsequent application.

The Interview Summary attached to the Notice of Allowability asserts that claim 21 was cancelled to avoid a potential rejection under 35 U.S.C. § 112, second paragraph. The cancellation of claim 21, however, should not be interpreted as conceding that the hypothetical rejection of claim 21 under 35 U.S.C. § 112, second

paragraph would be proper. Rather, Applicant's representative, Thomas Y. Ho, agreed to the cancellation of claim 21 by Examiner's Amendment during the telephonic interview on August 18, 2010, merely to further prosecution, and no agreement was reached with regard to the propriety of the hypothetical rejection of claim 21 under 35 U.S.C. § 112, second paragraph during discussions with the Examiner.

Applicant submits these comments in an effort to ensure that the claims are properly construed using only the language recited in the claims, and that Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any additional extensions of time required to enter the attached reply and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 19, 2010

By: 

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